

## CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS



The California Legislature considers many bills on privacy issues each year. This page summarizes some of the currently pending bills, as of the date noted at the bottom of the page. The listing of these bills does not imply a position of support or opposition to any of them. To get more information on the bills and their status, click on the link below and enter the bill number.

[Current Privacy Legislation  
www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html)

### 2005 Privacy Legislation Pending

**SB 7 (Figueroa)** – Internet Privacy: This bill would declare the Legislature's intent that a provider of e-mail services may not use the contents of e-mail messages to develop personally identifiable profiles of individuals and may not extract e-mail addresses or other personally identifiable information for the provider's own purposes.

**SB 13 (Bowen)** – Personal Information: State Agencies: This bill would amend the Information Practices Act, the privacy law that applies to state agencies, to revise the provision authorizing a state agency to disclose personal information for certain research purposes to the University of California or a nonprofit educational institution by permitting that disclosure only if the request is approved by the Committee for the Protection of Human Subjects for the California Health and Human Services Agency. The bill would also establish criteria for the review and approval of the request.

**SB 92 (Murray)** – Computer Spyware Penalties: This bill would add penalties to the existing law banning spyware. It would, with some exceptions, authorize the recipient of software transmitted in violation of the law, an Internet service provider that suffers direct injury as a result of or reasonably incurs necessary expenditures in response to a violation, the Attorney General, or a district attorney to bring an action to recover actual damages, and specified statutory damages. It would make violation of its provisions a misdemeanor.

**SB 96 (Murray)** – Peer-to-Peer File Sharing Software: This bill would provide penalties for anyone who sells, advertises or distributes peer-to-peer file-sharing software, as defined, and who fails to incorporate available filtering technology into that software to prevent use of such software to commit an unlawful act. It would authorize fines of up to \$2,500, and/or imprisonment in county jail for up to one year.

**SB 97 (Murray)** – Spam Penalties: This bill would make violation of existing law prohibiting using commercial email containing certain falsified, misrepresented, obscured or misleading information punishable as a misdemeanor. It would authorize a fine of up to \$2,500, and/or imprisonment of up to one year.

**SB 128 (Ackerman)** – Identity Theft: This bill would add several offenses, relating to theft of access cards and personal information, to the list of offenses qualifying for a pattern of criminal gang activity.

**SB 158 (Machado)** – Powers of Attorney: Social Security Numbers: This bill would delete the line for SSN from the statutory form to be used for granting power of attorney and would replace it with a line for a notary public to place the last 4 digits of a person's social security number. It would also specify the forms of identification acceptable by a notary for executing a jurat (the bottom part of an affidavit where the notary certifies that the document was sworn before the notary, where the statement is in a Statutory Form Power of Attorney).

**SB 222 (Runner)** – Identity Theft/Privacy: This bill would make violation of the provisions prohibiting the public posting or display of SSNs a misdemeanor.

**SB 346 (Battin)** – Identity Theft: Parent's Theft of Child's Data: This bill would provide that a child whose parent or legal guardian has used the personal identifying information of the child in violation of the Penal Code provision on identity theft may be adjudged a dependent child of the juvenile court.

**SB 401 (Ortiz)** – Medical Information: Pharmacies Marketing: This bill would amend the Confidentiality of Medical Information Act to provide that prohibited marketing activities include written communication from a pharmacy to a patient about drugs or treatments different from those being dispensed when the communication is paid for, or sponsored, by manufacturers, labelers or distributors of prescription drugs, except as specified.

**SB 440 (Speier)** – Personal information disclosures and business: This bill would prohibit a business, as defined and with specified exceptions, from denying an otherwise qualified consumer a product or service because the consumer has not provided the consent to disclose or share personal information pertaining to him or her, or because the consumer has directed that the information not be disclosed or shared, pursuant to state or federal law.

**SB 504 (Alquist)** – Identity Theft: This bill would provide that no licensed motor vehicle dealer may sell a vehicle through the purchaser's or lessee's use of a credit card or long-term financing without first obtaining the right thumbprint of the purchaser and a photocopy of his or her valid form of identification. The bill would authorize a peace officer to inspect and seize a thumbprint or a fingerprint card obtained by a dealer under these provisions if the officer is acting within the scope of his or her authority in response to a search warrant, as specified.

**SB 550 (Speier)** – Data Brokers: The bill would declare the intent of the Legislature to enact legislation that allows consumers access to their personal information held by data brokers, as specified.

**SB 682 (Simitian)** – Identity Information Protection Act: This bill would prohibit identity documents issued by public entities from containing devices that can broadcast personal information or enable personal information to be scanned remotely, with specified exceptions. The bill's provisions would not apply to existing systems, as defined, in use prior to the effective date of this bill.

**SB 839 (Poochigian)** – Identity Theft Traffickers Act: This bill would provide that every person who, with intent to defraud, sells, transfers or conveys the personal identifying information (PII) of another without that person's consent, or who, in any 12-month period, acquires the PII of four or more other persons which he or she knows or has reason to know was taken in violation of provisions on identity theft, is guilty of grand theft, punishable by imprisonment in a county jail for a period of up to one year or in state prison for 16 months, 2 or 3 years.

**SB 852 (Bowen)** – Breach Notification: Paper Records: This bill would amend the security breach notification law to provide that a public or private entity that owns or collects computerized data that includes a consumer's personal information to notify the consumer if there has been an unauthorized disclosure of that information to a third party, regardless of whether the data was in a non-computerized form at the time of the security breach, as specified. It would also require that a request by a law enforcement agency to delay notification must be in writing, as specified.

**AB 278 (Bogh)** – Identity Theft: Commercial Mail Receiving Agencies: This bill would require a commercial mail receiving agency (CMRA) to obtain the customer's thumbprint and the thumbprints of other authorized users. It would require the agency to maintain specified customer information for five years. It would prohibit a CMRA from releasing the thumbprints, identification, or USPS Form 1583 to any entity other than the Department of Consumer Affairs or a law enforcement agency, and would require the establishment of probable cause prior to such a release.

**AB 421 (Spitzer)** – Identity Theft: Minors: This bill would make the knowing distribution of a minor's personal information for criminal purposes a misdemeanor or, if great bodily injury or death results, a felony. It would not apply to an Interactive Computer System or an Internet Service Provider if it acts expeditiously to remove the unlawful material upon receiving valid notice from law enforcement, as specified.

**AB 424 (Calderon)** – Identity Theft: This bill would provide that "person" as used in the Penal Code provisions on identity theft includes a firm, association, organization, partnership, business trust, company, corporation, limited liability company, or other public entity. It would also expand the definition of "personal identifying information" to include a logo or graphic representation.

**AB 484 (Benoit)** – Elder Financial Abuse Penalties: This bill would provide for the imprisonment or fine, or both, of a caretaker of an elder or dependent adult who commits a second or subsequent violation of any law proscribing theft or embezzlement of the property of the elder or dependent adult, regardless of the value of the money or property taken.

**AB 618 (Cogdill)** – Identity Theft: Penalties: This bill would provide that a second violation of Penal Code § 530.5(a), identity theft, is a felony, and that violation of § 530.5(d), possession of personal identifying information with intent to defraud, is grand theft.

**AB 786 (Ruskin)** – Identity Theft: Security Breach Notification: This bill would require the California State University system to give employees, upon request, four hours of time off with pay following notification by the university of a breach involving the employee's personal information.

**SB 833 (Bowen)** – Unsolicited Advertising Faxes: This bill would make it unlawful for a person or entity, if located in California or if the recipient is located in California, to send an unsolicited advertisement to a fax machine. It would authorize the recipient of an unsolicited advertising fax to bring an action for a violation of these provisions for injunctive relief, actual damages or liquidated *statutory* damages of \$500 per violation, whichever is greater, or both injunctive relief and damages, and, if the violation was willful, would authorize a court to award treble damages. The bill would also make it unlawful for a person or entity, if located in California or the recipient is located in California, to initiate a facsimile communication unless the message is clearly marked with certain identifying information.

**AB 916 (Canciamilla)** – Elder Abuse: This bill would provide that any person who commits defined financial abuse, including identity theft, of an elder is punishable by imprisonment in a county jail for a period not exceeding one year or in the state prison for 3, 4, or 6 years.

**AB 946 (Wyland)** – Identity Theft: This bill would increase identity theft fines from \$1,000 to \$2,000 and from \$10,000 to \$20,000.

**AB 988 (Bogh)** – Identity Theft: Criminal Profiteering: This bill would add the theft of personal identifying information to the offenses specified as criminal profiteering activity and patterns of criminal profiteering activity.

**AB 1035 (Spitzer)** – Privacy: Public Officials: This bill would prohibit any person from knowingly (1) posting on the Internet, (2) hosting or providing service to an Internet Web site that posts an official's home address or telephone number, or (3) disclosing the location thereof, an official's home address or telephone number. It would further provide that an official whose home address or telephone number is disclosed as a result of a violation of these provisions may recover actual damages, including court costs, loss of wages, attorney's fees, pain and suffering, punitive damages and any other relief that a court deems proper and appropriate.

**AB 1036 (Koretz)** – Identity Theft: This bill would expand jurisdiction for criminal action based on unauthorized use of personal identifying information to include unauthorized retention and transfer of personal identifying information. It would also add the county in which the victim resided at the time the offense was committed to the jurisdictions in which a criminal action may be brought for commission of these crimes.

**AB 1069 (Montanez)** – Identity Theft: This bill would prohibit the possession of document-making devices with intent to use them to manufacture, alter, or authenticate a deceptive identification documents. It would also include, in the definition of "deceptive identification document," documents not used by a government agency of a foreign government, an international government or an international quasi-governmental organization. A first conviction would be punishable by one year in county jail; any subsequent conviction would be punished by either one year in jail or imprisonment in the state prison for 16 months, 2, or 3 years.

**AB 1527 (Liu)** – Identity Theft: Bank Account Numbers: This bill would prohibit a depository institution, as defined, from using an account number previously held by a different customer until three years after the account number was closed.

**AB 1566 (Calderon)** – Identity Theft: Penalties for Armed Forces Victims: This bill would provide that identity theft involving the personal information of a member of the armed forces, reserve or National Guard on active duty outside the state is punishable by imprisonment for one year and/or a fine of up to \$2,000.

**AB 1595 (Evans)** – Privacy: Public Officials: This bill would prohibit a person, business or association from selling or trading for value on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand not to disclose his or her information.

**AB 1694 (Leno)** – Credit Reporting: This bill would require a consumer credit reporting agency (CRA), upon the request of a consumer whose personal information was breached by a computerized data system, to place a security freeze on the consumer's credit report without charge to the consumer for this service. The bill would also require a consumer credit reporting agency to notify each consumer who is the subject of a consumer credit report of each instance that a new account is entered on the consumer's report, if the address on the credit application is different from the last address on record held by the consumer credit reporting agency.